

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Comstock et al.

Title: SYSTEM AND METHOD FOR CREDITING
AN ACCOUNT ASSOCIATED WITH A
NETWORK ACCESS NODE

Appl. No.: 09/871,111

Filing Date: 5/31/2001

Examiner: Taylor, Barry W.

Art Unit: 2617

Confirmation 9798
Number:

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Under the provisions of 37 C.F.R. § 41.41, this Reply Brief is being submitted in response to the Examiner's answer dated February 16, 2010. The Appeal Brief was filed December 28, 2009, in response to a Final Office Action dated July 29, 2009.

REMARKS

Independent Claims 7, 17, 29, 33, 43, and 65

The Examiner's Answer included the following response to Appellants' arguments in section II of Appellants' Appeal Brief:

[Carlson shows] providing second account crediting information to the accounting system, wherein the second account crediting information represents a second credit to be recorded to an account associated with an Internet service provider and the data signal is provided by the Internet service provider.

Carlson does not use the term "second account". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered – paragraph 0052. . . .

...

Most importantly, Carlson at paragraph 0052 reveals that the present invention allows the owner of the network access node 124 (e.g., a cell phone acting as a mobile access point) can cover the per minute connection charge of the owner's service and defray some of the costs associated with cellular connection service (e.g., monthly cellular phone service charges). One of ordinary skill in the art at the time of the invention would clearly recognize that a second account would be needed to pay the Internet service provider. . . .

Examiner's Answer at pp. 6-7 (emphasis in original). Similar remarks were put forth by the Examiner in the Response to Argument section (Section 10) of the Examiner's Answer.

Appellants respectfully disagree, and submit that the Examiner has still failed to establish that Carlson teaches all of the limitations of the rejected claims. More specifically, Appellants submit that Carlson does not teach "providing second account crediting information to the accounting system, wherein the second account crediting information represents *a second credit*

to be recorded to an account associated with an Internet service provider, wherein the Internet service provider provides access to the Internet via a fixed access point,” as provided by independent claim 7.

Carlson provides a first wireless device having access to a wide area network via a second wireless device, where the second wireless device may charge the first wireless device for providing such access. Carlson, ¶ 0026. In Carlson, the second wireless device is also referred to as a “connection provider” or “service provider.” Carlson, ¶¶ 0033, 0043. The billing and payment negotiations in Carlson all appear to be limited to negotiations between the first wireless device and second wireless device. Carlson does not disclose providing two different credits to an accounting system, as provided by claim 1. Rather, Carlson discloses that the second wireless device may charge the first device for access to a WAN. There is no accounting system disclosed or suggested in Carlson that receives both a credit for an account associated with the network access node and a credit for an account associated with an Internet service provider, as provided by claim 7.

Paragraph 0052 of Carlson discloses that “the present invention allows the owner of the second wireless device (e.g., a cell phone acting as a mobile access point) can cover the per minute connection charge of the owner’s service and defray some of the costs associated with cellular connection services (e.g., monthly cellular phone service charges).” Thus, Carlson discloses only that the owner of the second wireless device may incur service charges, and that by providing access to the first mobile device, service charges for the second wireless device may in some way be “defrayed.” However, paragraph 0052 of Carlson does not teach or suggest providing two different credits to an accounting system, as provided by claim 7, but rather only broadly discloses that service charges for a wireless device may be somehow defrayed by providing access to other wireless devices.

The feature of recording both a credit to an account associated with a network access node and a second credit to an account associated with an Internet service provider, as in claim 7, appears to be completely missing from Carlson. Appellants submit that the Examiner’s

conclusory remarks based on the broad teachings of Carlson, coupled with the Examiner's reliance on Appellants' own disclosure, amount to improper hindsight reasoning. Thus, independent claim 7 is believed to be patentable over the cited references. Independent claims 17, 29, 33, 43, and 65 are believed to be patentable over the cited references for similar reasons as those presented with respect to independent claim 7.

Independent Claim 17

Independent claim 17 is believed to be further patentable over the cited references because independent claim 17 provides for a "portable device" that comprises means for providing account crediting information to an accounting system representing both a credit for an account associated with the portable device and a credit associated with an account for an Internet service provider. In other words, it is the portable device in claim 17 that provides the accounting information for the two different credits. Carlson does not disclose that either of the wireless devices in Carlson provides accounting information such as that provided by the portable device of claim 17 (e.g., accounting information for the two different credits recited in claim 17). As indicated above, Carlson only mentions that the service charges associated with the second wireless device may be defrayed. The second wireless device in Carlson is not providing accounting information such as that provided by the portable device of claim 17. The features of claim 17 appear to be completely missing from the cited references. Thus, independent claim 17 is believed to be further patentable over the cited references.

* * *

In view of the foregoing remarks as well as the Argument set forth in Appellants' Appeal Brief, Appellants respectfully request that the Board reverse all claim rejections and indicate that a notice of allowance respecting all pending claims should be issued.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to

Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date /04-15-2010/

By /Matthew J. Swietlik/

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 319-7306
Facsimile: (414) 297-4900

Matthew J. Swietlik
Attorney for Applicant
Registration No. 58,428